

Retailers are prohibited from advertising or holding out that they will absorb the purchaser's Use Tax obligation. See 86 Ill. Adm. Code 150.515. (This is a GIL).

December 27, 1999

Dear Xxxxx:

This letter is in response to your letter dated November 30, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

Enclosed is a letter sent on behalf of our client to the Illinois Department of Revenue Bureau of Criminal Investigation on July 1, 1999. I have since spoken with that office, as well as yours, and learned that this request should have been addressed to you originally. If this is incorrect, please let me know the correct office.

Our client is still very interested in your interpretation of its competitor's advertising and the related statute. We would appreciate it if you could inform us of your interpretation as soon as possible, as several months have elapsed since our original request.

Thank you. I look forward to your response on this matter.

We have reviewed the advertisement you sent to us. As you are aware, an advertisement by a business stating it will pay the customer's sales tax violates the provisions of Section 7 of the Use Tax Act (35 ILCS 105/7). As indicated therein, it is a class A misdemeanor for a retailer to advertise that he will pay the sales tax on a purchase. Our regulations also reflect this at 86 Ill. Adm. Code 150.515.

In such cases, the Department informs the business making the advertisement that the advertisement violates Section 7 of the Use Tax Act and that it should immediately cease such advertising. The business is also warned that any future advertisements of this kind will be viewed as a continuing violation, which could result in criminal prosecution. However, due to the confidentiality provisions incorporated into the Use Tax Act, any investigation taken against the business cannot be disclosed by the Department.

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Please be aware that the Department has said in prior rulings that advertisements do not violate the Use Tax Act if they contain language similar to the following:

"an amount equal to the sales tax will be deducted from selling price then the applicable tax will be added to the order to comply with state, county and local tax laws."

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.